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EDITORIAL

Friends,

Yesterday, we held our 70th Republic Day (the first major national event which to be celebrated just a few months ahead of the 2019 Lok Sabha elections) celebrations which began with a wreath-laying ceremony at the Amar Jawan Jyoti at India Gate by Prime Minister Narendra Modi. Security was made stronger across the national capital, with 25,000 policemen deployed in the city.

With security, we must mention **International Customs day** which is celebrated across the world on this date every year to commemorate the very first official conference of the World Customs Organization having over 182 member countries. Established in the year 1952 as an autonomous body, it is the only intergovernmental organization which solely highlights on the customs matters. Role of Customs in securing the international borders and effectively manning land, sea, and air economic frontiers of the country is significant

Our celebrations organised by the Central Board of Indirect Taxes & Customs were held in the Dr. Ambedkar International Centre on 25th January, 2019.

The theme for International Customs Day 2019 is " where SMART stands for Secure, Measurable, Automated, Risk Management-based and Technology-driven.

The efforts made by the Central Board of Indirect Taxes and Customs and Mumbai Customs in facilitating trade led to an improvement in India's ranking in World Bank's Trading across Borders index from 146 in 2018 to 80 in 2019. This also contributed significantly to India's quantum jump in Ease of Doing Business rank from 130 in 2017 to 77 in 2019.

Presidential Award of Appreciation Certificates and World Customs Organization (WCO) Certificates of Merit Award were also presented to the 44 distinguished officers of the CBIC selected from all cadres of the Service, who have performed with distinction in prevention of smuggling, detection of tax evasion, detection of trade based money laundering and foreign exchange violations, besides contributions in tax policy formulation, revenue mobilization, and automation of business processes, and capacity building and training.

Just to reiterate that we remain available over telecom or e-mail.

Happy Republic Day & Customs Day!

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CS, BA L.LB(BANGALORE)

SYNOPSIS

TAX CALENDAR

Due date	Form	Description
30th January 2019	Form 27D	Quarterly TCS certificate in respect of tax collected for the quarter ending December 31, 2018
30th January 2019	Form 26QB	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of December, 2018
30th January 2019	Form 26QC	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of December, 2018
31st January 2019	Form 24Q/26Q	Quarterly statement of TDS deposited for the quarter ending December 31, 2018.
31st January 2019	Form 3CEAC	Intimation under section 286(1), by a resident constituent entity of an international group whose parent is non-resident.
31st January 2019	GSTR-1	Details of outward supplies of goods or services for persons having aggregate turnover of upto 1.5 crore rupees in the preceding financial year or the current financial year.

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

GST ON VARIOUS PROGRAMMES CONDUCTED BY THE INDIAN INSTITUTES OF MANAGEMENTS (IIMS)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 82/01/2019- GST dated 01.01.2019** has issued a clarification with respect to applicability of GST on various programmes conducted by the Indian Institutes of Managements (IIMs)

They provide various **long duration programs (one year or more)** for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017.

They also provide various **short duration/ short term programs** for which they award participation certificate to the executives/ professionals. Such short duration executive programs attract standard.

Applicability of GST from 1st July, 2017 to 30th January, 2018

Only specific exemption to three programs specified under Sl. No. 67 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 is available.

Applicability of GST from 1st July, 2017 to 30th January, 2018

All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 **including one- year Post Graduate Programs for Executives are exempt from GST.**

All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law. Such short duration executive programs **attract standard rate of GST @ 18% (CGST 9% + SGST 9%).**

From 31.01.2018 all the IIMs are "educational institutions" as defined under notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017 as they provide education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force.

Also specific exemption granted to IIMs vide Sl. No. 67 has become redundant vide notification No. 28/2018- Central Tax (Rate) dated, 31st December, 2018 w.e.f. 1st January 2019.

Thus, for the period from 31st January, 2018 to 31st December, 2018, two exemptions, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/ 2017- Central Tax (Rate), dated 28.06.2017 are available to the IIMs.

The legal position in such situation has been clarified by Hon'ble Supreme that if there are two or more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him.

Reference:

i. H.C.L. Limited vs Collector of Customs [2001 (130) ELT 405 (SC)]

ii. Collector of Central Excise, Baroda vs Indian Petro Chemicals [1997 (92) ELT 13 (SC)]

INCOME TAX

Case Law

DIRECTOR OF INCOME TAX – (EXEMPTION) VERSUS EXCHANGE M/S. NATIONAL STOCK INVESTOR PROTECTION FUND TRUST

Brief: Claim not made by the assessee during the filing of return of income but as an alternative at the appellate stage before the CIT(A) is allowed.

OUR COMMENTS: In the given case, assessee is a Trust registered under the Charitable Trusts Act and is also a National Stock Exchange Investor Protection Fund Trust which has been duly recognized under a Notification for benefit under Section 10 (23EA) of the Income Tax Act, 1961.

For AY 2010-11, it filed a return in which the assessee had claimed exemption under Section 10 (23EA) and the AO also granted such exemption.

Before the CIT(A), the assessee claimed similar exemption with respect to another receipt which was rejected on the grounds that the claim was not made in the return filed and that a Trust which receives the benefits u/s 11 to 13 cannot claim exemption under Section 10 (23EA).

In further Appeal the Tribunal held that there is no prohibition in law that the Trust which qualifies under Section 11 to 13 cannot claim exemption under Section 10 (23EA) of the Act.

Also, Revenue does not dispute that necessary facts were already on record to examine such a claim. The assessee's claim was based on pure interpretation of statute.

Tribunal, therefore, correctly rejected the Revenue's objection relying upon the decision of this Court in the case of Pruthvi Brokers & Share Holders Pvt. Ltd. [BOMBAY HIGH COURT].

There is no prohibition in law which would prevent the assessee – Trust which qualifies for benefits under Section 11 to 13 from claiming exemption under Section 10 (23EA) of the Act. In fact when the Assessing Officer allowed such an exemption for two claims which assessee had raised in the return, the Revenue accepted this position.

[Decided against revenue]

CUSTOMS

NOTIFICATIONS/CIRCULARS

AMENDMENT TO REMOVE PRE-IMPORT CONDITION AND INCLUDE SPECIFIED DEEMED EXPORT SUPPLIES FOR EXEMPTION FROM INTEGRATED TAX AND COMPENSATION CESS FOR MATERIALS IMPORTED AGAINST ADVANCE AUTHORIZATIONS AND ADVANCE AUTHORIZATIONS FOR ANNUAL REQUIREMENT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 01/2019 – Customs dated 10.01.2019** hereby amends **Notification No. 18/2015-Customs, dated the 1st April and Notification No. 2015 and 20/2015-Customs, dated the 1st April, 2015** to remove pre-import condition and include specified deemed export supplies for exemption from integrated tax and Compensation cess for materials imported against Advance Authorizations and Advance Authorizations for Annual Requirement.

Please refer the notification for details.

AMENDMENT IN NOTIFICATION NO. 5/2016-CUSTOMS (N.T./CAA/DRI) DATED 01.12.2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **NOTIFICATION No. 1/2019-Customs (N.T./CAA/DRI) dated 21.01.2019 has** amended Notification No. 5/2016-Customs (N.T./CAA/DRI) dated 01.12.2016 wrt Appointment of Common Adjudicating Authority by DGRI.

Please refer the notification for details.

CUSTOMS POST CLEARANCE AUDIT

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 02/2019-Customs dated 08.01.2019 has** issued Circular wrt Post clearance audit.

Under the WTO's Trade Facilitation Agreement, it has been inter-alia provided that with a view to expediting the release of goods each member shall adopt or maintain post clearance audit **(PCA)to** ensure compliance with customs and other related laws and regulations;

It was first introduced in 2005 (when the Risk Management System was operationalized). It replaced the conventional system of concurrent audit, which formed a part of the assessment process, by separating the audit function from assessment function, thereby facilitating expeditious clearance of goods

Onsite Post Clearance Audit (OSPCA) was also introduced in 2011, which was a more comprehensive audit carried out at the premises of importers and exporters. OSPCA was conducted under section 17(6) of the Customs Act, 1962 as the provisions empowered the proper officer to audit the assessment of duty on the imported goods or export goods at his office or at the premises of the importer or the exporter. However, its limited scope has proved to be restrictive inasmuch as only an importer or an exporter could be audited.

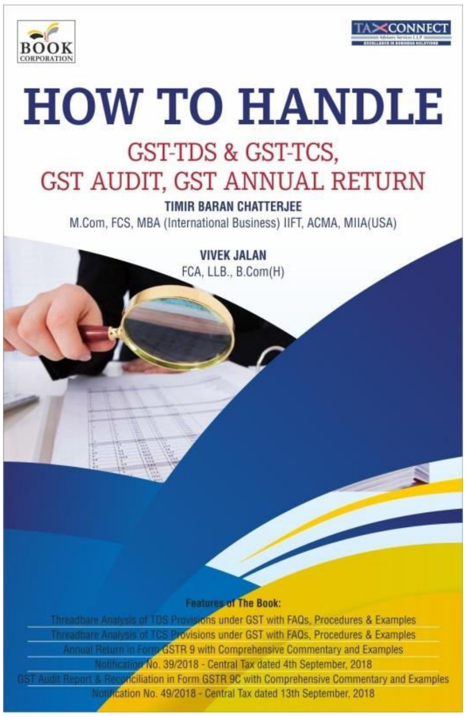
Hence, Board issued 'Customs Audit Regulations, 2018' vide notification No. 45/2018-Cus (NT) dated 24.5.18 in supersession of OSPCA.

Under the new scheme, Transaction based audit (TBA) and Premises based audit (PBA) have been prescribed. TBA was actually introduced in 2005 and PBA was first introduced in the year 2011. However, the new provision on Customs Audit under section 99A of the Customs Act, 1962 has extended the scope of Premises Based Audit by including other entities who are concerned with imports or exports. In PBA, customs would review the import and export over a given period and check all relevant commercial records, including financial statements and contracts to verify the particulars given in a goods declaration. PBA would enable the department to bridge the communication divide and usher in a new era of partnership with trade. Further, Board may also select any criteria or Theme for the audit.

Please refer the circular for details.

STOP PRESS

HOW TO HANDLE GST-TDS & GST-TCS, GST AUDIT, GST ANNUAL RETURN



ABOUT THE BOOK: This book provides an insight into the following:

1. **Threadbare Analysis of TDS Provisions under GST with FAQs, Procedures & Examples**
2. **Threadbare Analysis of TCS Provisions under GST with FAQs, Procedures & Examples**
3. **Annual Return in Form GSTR 9 with Comprehensive Commentary and Examples**
4. **Notification No. 39/2018 – Central Tax dated 4th September, 2018**
5. **GST Audit Report & reconciliation in Form GSTR 9C with Comprehensive Commentary and Examples**
6. **Notification No. 49/2018 – Central Tax dated 13th September, 2018**

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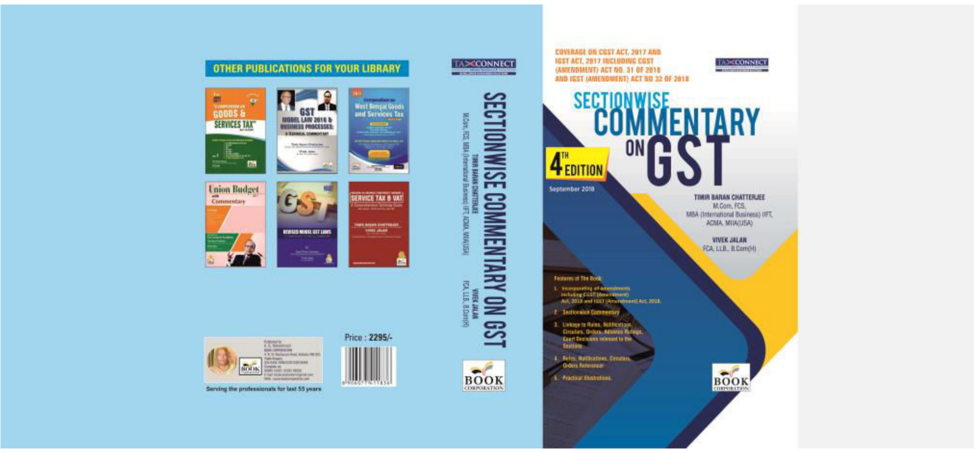
IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL DATE



ABOUT THE BOOK: This book provides an insight into the following:

1. **Incorporating all amendments**
2. **Section wise commentary**
3. **Linkages to Rules, Notifications, Circulars, Orders, Advance Rulings, Court Decisions relevant to the Sections**
4. **Rules, Notifications, Circulars, Orders Referencer**
5. **Practical Illustrations**

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